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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
2008 APR 28 AM 10:45

UNITED STATES OF AMERICA,

Plaintiff,

v.

1) Virgil RUIZ-Valenzuela

Defendant(s)

) Magistrate Case No.

) '08 MJ 1307

) COMPLAINT FOR VIOLATION OF:

) Title 8 U.S.C., Sec. 1324 (a)(1)(A)(ii)


) Transportation of Illegal Aliens

) 18 U.S.C. 2

The undersigned complainant, being duly sworn, states:

On or about **April 23, 2008**, within the Southern District of California, defendant **Virgil RUIZ Valenzuela** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Catalina MENDOZA-Quinones, Jesus MAGALLON-Berrospe, and Salvador AVILA-Gutierrez**, had come to, entered and remained in the United States in violation of law, did transport and move, said aliens within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii), and Title 18, United States Code, Section 2.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

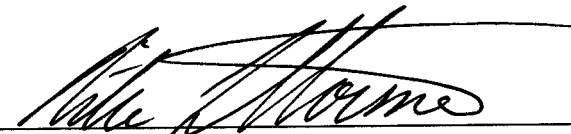


SIGNATURE OF COMPLAINANT

John R. Wallace

Supervisory Border Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 28th DAY OF April, 2008



Nita L. Stormes

UNITED STATES MAGISTRATE JUDGE

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CONTINUATION OF COMPLAINT:

Virgil RUIZ-Valenzuela

PROBABLE CAUSE STATEMENT

Furthermore, the complainant states that **Catalina MENDOZA-Quinones, Jesus MAGALLON-Berrospe, and Salvador AVILA-Gutierrez** are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On Wednesday April 23, 2008 uniformed Border Patrol Agents (Field Operations Supervisor) C. Allen, Solario, J. De La Torre, D. White, J. Trautmann, R. Melchor, and an El Centro Border Patrol Agent J. Morales had received information of alien smuggling activity in room #40 at the Motel 6 in El Centro California located on 4th Avenue. Once they arrived at Motel 6 there was no room #40. Agent White entered the lobby of the motel to view a map of the motel. The manager approached Agent White and told him he may want to look at rooms #133 and #134 as they were rented by the same person. These rooms were located at the rear of the motel and were obscured from most vantage points in the area.

Agent Allen approached room #133 and saw that the door was ajar. While the remaining agents were approaching room #133 a passing citizen told the agents that he had seen 10-15 "Mexicans" being shuttled into room #134 the previous night. Agent Allen noticed cigarette rolling papers, several cell phones and various other items on the bed closest to the window. Also visible to Agent Allen was a brand new car battery hooked up to a cell phone lying between the two beds. Agent Allen knocked on the door and heard a voice within, acknowledging his knock. Agent Allen knocked again and announced himself as a United States Border Patrol Agent. The subject in the room, co-principal, Nick RODRIGUEZ-Ramos, told Agent Allen to come in. Agent Allen pushed the door open and RODRIGUEZ acknowledged Agent Allen. Given the information that led agents to the motel, Agent Allen questioned RODRIGUEZ regarding his citizenship. RODRIGUEZ claimed to be a United States citizen. Agent Allen began to converse with RODRIGUEZ regarding his reason for being at the motel. RODRIGUEZ admitted that they were smuggling aliens and that a guy named "Eddie" was staying in the room with him.

At about this time one of the cell phones in room #133 began to ring. Agents allowed RODRIGUEZ to answer the phone, RODRIGUEZ later relayed to agents that Eddie was on the phone notifying him that the Border Patrol was at the motel and he should get out. RODRIGUEZ replied to Eddie that he did not see any agents and that he would just make sure he locked the door. Eddie told RODRIGUEZ that he would come and get him.

At approximately 10:30 a.m. a 1989 Grey Honda Accord with California license plates, pulled into the parking lot. Agent Allen immediately recognized the driver as co-principal Eddie SIMON from pictures he had seen in room #133. Agent Allen approached the Honda. Agent Allen identified himself as a Border Patrol Agent and asked the driver if his name was Eddie. The driver stated his name was Eddie SIMON. The Honda also contained a front seat passenger, co-principal, Elsa VALENZUELA-Arellano a United States citizen. Agent Allen noticed a rear seat passenger who did not appear to be familiar with the front seat occupants and was startled by the uniformed Border Patrol presence. This individual was questioned as to her citizenship and the subject, later identified as Catalina MENDOZA-Quinonez, was determined to be a citizen and national of Mexico without immigration documents. VALENZUELA, the front seat passenger was determined to be married to **Virgil RUIZ-Valenzuela**, hereinafter referred to as the defendant.

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CONTINUATION OF COMPLAINT:**Virgil Ruiz VALENZUELA**

At approximately 11:40 a.m. Agent Allen advised SIMON, VALENZUELA and RODRIGUEZ they were under arrest. Due to the complexity of this event and concerns about transportation and processing issues, Agent Allen read them their Miranda Rights. All of the subjects acknowledged they understood their rights.

During this time Agent Allen was able to illicit further information concerning an additional load vehicle from SIMON. The vehicle's description was that of an older model, White, Ford F-150 extra-cab pick up with a black ladder rack. A short time prior to receiving this information Agent Allen had seen a vehicle matching this description pull into a parking space around the corner from room #133 and witnessed the driver get out of it and walk away. Agent Allen approached the vehicle and saw three subjects, trying to conceal themselves under large blankets in the rear floor of the cab. Agent Allen opened the door of the truck, identified himself as a Border Patrol Agent and questioned the occupants concerning their citizenship. All of the occupants stated they were Mexican citizens illegally in the United States and that they did not have any immigration documents allowing them to enter, reside, remain, or work in the United States legally. The subjects were identified as Jesus MAGALLON-Berrospe, Jose Rafael RAMOS-MIRANDA, and Salvador AVILA-Gutierrez. It was later determined that RAMOS was a citizen of El Salvador.

Found inside the cab of the pick up truck was a California Identification Card (A2154136) belonging to the defendant. Also found inside the cab of the pick up truck was a California Driver License (A6771315) belonging to a William C. Lane.

Agent Allen positively identified the subject depicted on California Identification Card (A2154136) as the subject that he had earlier observed get out of the driver's side of the pick up and walk away. California Identification Card (A2154136) depicts the photograph and biographical information of the defendant.

STATEMENT OF CO-PRINCIPAL ELSA VALENZUELA-ARELLANO:

Co-principal Elsa VALENZUELA-Arellano admits that she is a citizen of the United States and provided a post-Miranda statement which in summary depicts the following:

VALENZUELA stated that last year she was arrested for smuggling 135 pounds of marijuana through the Calexico Port of Entry. She stated that she spent six months in jail and is currently under supervised release. She stated that she was staying with her husband the defendant, but she moved out because he was using drugs, so she moved into a shelter. VALENZUELA stated that she left the shelter and returned with the defendant because she had no where to go.

VALENZUELA stated that when she returned with the defendant, he was hanging out with co-principal Eddie SIMON. She stated that she and the defendant started to live with Eddie approximately a month ago. VALENZUELA stated that two days ago Eddie was evicted from his home so they all moved in into a motel. She stated that Eddie hires people to smuggle illegals into the United States. VALENZUELA stated that Eddie hired the defendant to smuggle illegals into the United States. She stated that the defendant has smuggled aliens on several different occasions for Eddie.

VALENZUELA stated that this morning the defendant left the hotel early in the morning in a gray vehicle that belonged to Eddie. She stated that she accompanied Eddie in a white Ford truck to put stuff into storage. VALENZUELA stated that after they were done with the storage they went to a gas station on 4th street. She stated that this is where they met the defendant. VALENZUELA stated that they switched vehicles with the defendant. She stated that there were four illegals in the gray vehicle that the defendant was driving. VALENZUELA stated that the four illegals were transferred over to the truck, but that the female illegal did not fit, so she had to tell her to get in the back seat of the gray vehicle.

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CONTINUATION OF COMPLAINT:**Virgil RUIZ-Valenzuela**

VALENZUELA states that she was instructed to tell the female illegal to get in the vehicle by Eddie who was driving the vehicle. VALENZUELA states that after leaving the gas station they returned to the motel, and encountered the Border Patrol.

STATEMENT OF CO-PRINCIPAL EDDIE DUANE SIMON:

Co-principal Eddie Duane SIMON provided a post-Miranda statement which is summarized as follows:

SIMON stated that he is a United States citizen and that he used to live at 864 Orange Avenue in El Centro, California, but had just been evicted. SIMON said that he and some friends were staying at The Motel 6 in El Centro, and that he had paid for one of the two hotel rooms, but that they were in his friend "Goofy's" name. SIMON said that Goofy's real name was Francisco or Feliciano or something like that. SIMON said that they had rented two rooms, #133 and #134, and that he and his friend "Pops" had been staying in room #133, while his other friends, the defendant and Elsa, were staying in room #134.

When asked to describe how the undocumented aliens had gotten in the back of the car he was driving and in the back of the pick-up truck, SIMON said that he didn't know, and that he had been asleep when that had happened. In the vehicle he was driving, he stated that he and Pops had been sick and had been staying in their room. SIMON said that he received a call from the defendant saying that he had gotten a flat tire in the Honda Accord, and had asked him come and meet him and give him the Ford F-150. SIMON stated that he and Elsa had left the motel in the truck and gone to help the defendant. SIMON said that he was supposed to meet the defendant at an apartment complex near Highway 8 in Ocotillo.

When asked why he had called Nick, asking if the Border Patrol was at the motel, SIMON said that they had received a call that the Border Patrol was knocking at their motel door, so they had called Pops to see if agents were there. SIMON said that he began to ask Elsa what they had gotten him into, and he asked Elsa if the defendant was going to have illegal aliens, because they were bringing him the truck. When asked if the defendant was an alien smuggler, SIMON said that he was not going to call him an alien smuggler, but that the defendant was the one who had gone and picked up the aliens.

SIMON said that they arrived where the defendant was waiting, and gave him the truck. According to SIMON, he saw the defendant doing something in the back of the truck and said that he knew what he was doing but didn't even want to think about it. SIMON saw the defendant putting some boxes and stuff over the bed of the pick up truck and knew that he had been dragged into something. He said that there was a girl whom he did not recognize standing with Elsa, as well. SIMON was asked what he thought that the defendants placing of boxes and stuff over the bed of the pick up meant, and SIMON said that in his mind it meant that someone was trying to smuggle illegal aliens and trying to cover them up.

SIMON said that he asked who the girl was with Elsa and that she told him that she was a friend. SIMON said that he did not know if the lady was an illegal alien or not. SIMON said that he did not know and he did not want to know. He said that she and Elsa got back into the Honda and that he drove them back to the motel, where the Border Patrol arrested them. He stated that he was angry because his friends had gotten him into this and that they knew that he was against this sort of thing. He said that he later learned that this female alien had not fit in the truck and that was why she had gotten in the car. When asked if it was all Elsa and the defendants' fault, SIMON said that it was the defendant doing it.

When asked, SIMON said that he did not know what had happened to the defendant and that he had last seen him at the apartment complex when they had brought him the truck. SIMON said that he did later, after he was detained, notice the truck parked at the motel.

CONTINUATION OF COMPLAINT:**Virgil RUIZ-Valenzuela**

SIMON was shown California Identification Card (A2154136) which was found in the cab of the white pickup. SIMON identified the subject pictured on the card as the defendant.

STATEMENT OF CO-PRINCIPAL NICK RAMOS-RODRIGUEZ:

Co-principal Nick RAMOS-Rodriguez provided a post-Miranda statement which is summarized as follows:

RAMOS stated that he is a United States citizen and that he was born on October 27, 1958, in Los Banos, California. He stated that he lives in Coalinga, California.

When asked how he had become involved in the smuggling of undocumented aliens, RAMOS stated that he met an alien smuggler named Eddie SIMON through a girl named Michelle McMasters. Eddie wanted RAMOS to smuggle aliens as a load driver. RAMOS said that he began working as a load driver, picking up undocumented aliens and transporting them to Redlands, California. He stated that he is paid \$100.00 (USD) per alien whom he successfully smuggles. RAMOS stated that Eddie is his boss and the person who pays him.

RAMOS said that there were a number of members of the smuggling cell, besides himself and Eddie. He described a female smuggler named Elsa whom he stated was the wife of another smuggler, the defendant. He described a third subject known as Goofy; whom he stated was the defendant's brother. RAMOS stated that Eddie was in charge and that all of the rest of them serve as drivers. RAMOS said that he has been sick with a cold for about the last week and that the defendant has been picking up all of the aliens. He said that Elsa typically rides along with the defendant when he picks up and transports aliens.

RAMOS stated that he has worked for Eddie as a driver transporting illegal aliens for the last six months, during which time he estimates that he has successfully transported 40 to 50 undocumented aliens. He stated that the number of aliens per trip is always one or two, and that he always has them sit upright in the car, in plain view, whereas some of the other drivers have them crouch down or lay down out of view. He stated that he would smuggle aliens about three times a week, for the past six months.

RAMOS was shown a set of 15 Polaroid photographs of the subjects detained in the event. He identified photo # 14 as Eddie, the person for whom he works smuggling aliens. Photo # 14 is Co-principal Eddie Duane Simon. RAMOS identified photo #10 as Elsa, another co-principal, and the wife of the defendant. Photo # 10 is Co-principal Elsa VALENZUELA-Arellano.

RAMOS was shown California Identification Card (A2154136) which was found in the cab of the white pickup. SIMON identified the subject pictured on the card as the defendant.

STATEMENT OF MATERIAL WITNESS JESUS MAGALLON-BERROSPE:

Material Witness Jesus MAGALLON-Berrospe admits to being a national and citizen of Mexico illegally present in the United States.

MAGALLON stated that he arrived approximately eight days ago from Michoacán to Tijuana by plane. He stated that he made smuggling arrangements with an individual named "Adrian." MAGALLON stated that he was to pay Adrian \$3,000.00 (USD) to be smuggled to Oxnard, California. He stated that he was staying at a friend's house where he was picked up by an unknown individual driving a Ford (LOBO) truck. He stated that this individual transported him to an undisclosed area where they picked up three more individuals, two males and one female.

CONTINUATION OF COMPLAINT:**Virgil RUIZ-Valenzuela**

MAGALLON stated that they traveled for approximately an hour and they were dropped off at an unknown location and waited there for approximately 5 to 6 hours before they met the foot-guide. He stated that the guide instructed them to follow him. MAGALLON stated that they traveled through the hilly terrain for approximately an hour to an hour and a half. MAGALLON stated that they arrived to a road which was the designated area to be picked up by a vehicle. He stated that the foot-guide instructed them to stay there while he went back to get more food. According to MAGALLON, the foot-guide left his phone with the group and told them he would be back with food. He stated that they spent the night there by the road but the foot-guide never returned. MAGALLON stated that in the morning they received a call on the foot guide's telephone that a small grey car would be picking them up. He stated that shortly after a vehicle arrived and honked its horn and that everybody loaded into the vehicle.

MAGALLON stated that the vehicle traveled to an unknown area where they met up with two other individuals driving a white truck. He stated that there was female passenger in the white truck and a male driver. MAGALLON stated that the female in the white truck instructed them to get out of the grey vehicle and get in the white truck. MAGALLON stated that all three men got in the backseat of the truck but the female remained in the grey car because she did not fit in the backseat with the men. He stated that the female passenger from the white truck covered them up with blankets. According to MAGALLON, the driver and female passenger switched vehicles and were now driving the grey car. MAGALLON stated that the driver that picked them up was now driving the white truck. He stated that the driver instructed them to stay down in the vehicle to avoid detection by Immigration. They traveled for a while until the truck came to a stop and the driver exited the vehicle. He stated that they were left in the vehicle for approximately forty-five minutes to an hour with all the windows rolled up. MAGALLON stated that he couldn't breathe and decided to get up from the backseat. When he got up to see what was going on, he was seen and approached by Border Patrol Agents.

MAGALLON was shown a set of Polaroid photos numbered 1 through 15 of the individuals involved. MAGALLON identified photo #10 (Elsa VALENZUELA-Arellano) as the individuals who instructed them to get in the back seat of the white truck. MAGALLON also identified Eddie SIMON as the driver of the white truck who switched into the gray vehicle.

On April 27, 2008, a second videotaped sworn statement with MAGALLON was conducted. MAGALLON was shown the two California Identification Cards found in the white pickup in which he was arrested. MAGALLON identified the person depicted on California Identification Card (A2154136) as the driver of the car which had originally picked him and the other three illegal aliens after they had crossed into the United States. California Identification Card (A2154136) depicts the photograph and biographical information of the defendant.

STATEMENT OF MATERIAL WITNESS SALVADOR AVILA-GUTIERREZ:

Material witness Salvador AVILA-Gutierrez admits to being a citizen and national of Mexico illegally present in the United States.

AVILA stated that he and his daughter-in-law arrived in Tijuana from Michoacán on Friday, and that they stayed in a hotel. AVILA stated he made arrangements to be smuggled over to the United States in Tijuana at a taxi stand with a man whose name he does not know, and they were to pay \$2,500 (USD) each to go to Los Angeles. AVILA stated that on Tuesday he and his daughter-in-law were picked up from the hotel and were taken to an unknown locale where they were to cross the border. According to AVILA, around 4:30 p.m. he and his daughter-in-law along with two other individuals were guided into the United States by one foot guide.

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CONTINUATION OF COMPLAINT:**Virgil RUIZ-Valenzuela**

AVILA stated that after entering the United States they walked for about one hour, before arriving by the highway. AVILA stated once they arrived at the spot, the foot guide said he had to go, but said he would be back with food and water. The foot guide left them with a cell phone and told them what to say when the person that was going to pick them up called. AVILA stated that they spent the night by the side of the road waiting for the phone to ring, but no one called until the next morning. AVILA stated that the person that called said they would be picked up in a grey car, and that when the vehicle arrived they should all get in quickly.

Shortly after they received the call the vehicle had arrived to pick them up and they all got in the vehicle. AVILA stated that the driver instructed them to get down once they got in the vehicle so no one could see them. AVILA then stated they drove for about twenty minutes until they got to a parking lot where there was a pick up truck waiting for them. There was a male and female in the pick up truck, who then instructed them to get out of the car and into the pick up. According to AVILA, he and the two other smuggled individuals were instructed to get in the truck and lie down, and that his daughter-in-law was instructed to get back in the car. AVILA stated after he and the other two individuals laid down in the truck, they were covered with a tarp and some junk to make it look like there were no bodies in the truck. AVILA stated that they then drove for a few minutes and the truck parked.

He was not able to see where they were due to being covered up. AVILA stated that after the truck parked they were left there in the heat with the windows up for about half an hour. AVILA stated that he feared for his life because of the heat and it being hard to breathe under the tarp. Due to the heat, AVILA stated that they had to get up and that once they got up they were noticed and apprehended by the Border Patrol who was there in the hotel parking lot where they were parked.

AVILA was presented with a stack of 15 Polaroid photographs. AVILA identified Eddie Simon as the driver of the pick up truck. AVILA identified photograph #10 as the female who was the co-pilot of the pick up truck. Photograph #10 is Elsa VALENZUELA-Arellano.

On April 27, 2008, a second videotaped sworn statement with AVILA was conducted. AVILA was shown the two California Identification Cards found in the white pickup in which he was arrested. MAGALLON identified the person depicted on California Identification Card (A2154136) as the driver of the car which had originally picked him and the other three illegal aliens after they had crossed into the United States. California Identification Card (A2154136) depicts the photograph and biographical information of the defendant.